
**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

R. S.A. No. 5445 of 2003

Date of decision: 6.12.2007

Punjab Wakf Board

...Appellant

Versus

Shri Kahniya Lal and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Arun Palli, Senior Advocate with
Mr. Tushar Sharma, Advocate for the appellant.

Mr. Amit Aggarwal, Advocate for respondent no. 2.

RAJESH BINDAL, J.

The plaintiff is in second appeal before this Court against concurrent findings of fact by both the Courts below whereby suit filed by it for permanent injunction was dismissed.

The claim set up in the suit was that property in question was leased out to Kanhiya Lal and the restraint was sought against him from raising any construction thereon. The suit was contested by the respondents/defendants with the plea that the property was part of old Khasra No. 6658 on which Uttam Chand son of Bhola was in possession for many years and an earlier suit filed by the appellant regarding the same property was dismissed in 1971. Shop in question on the premises was constructed more than 30 years back. The alleged allotment letter and rent deed were not found to be duly proved in the evidence as the same were merely tendered by the Estate Officer of the appellant/plaintiff and to prove the execution of the document, the other witnesses were not examined. As the witness who produced the document was not the executant thereof, he could not prove the contents therein. Respondents/defendants further relied upon an earlier judgment and decree dated November 18, 1971 passed against the appellant in a suit filed by the appellant against Uttam Chand wherein the claim of ownership set out by the appellant of the property in

dispute was not accepted. Though in the memo of parties Uttam Chand is shown to be father of one Mukhi as respondent no.2, however, learned counsel for the respondents referred to Civil Misc. No.1234-C of 2007 filed by the appellant, wherein it was mentioned that infact it was Uttam Chand Mukhi and not Mukhi son of Uttam Chand. That means that the earlier litigation where the appellant had set up a claim for ownership of the property was decided against it. Learned counsel for the appellant could not point out any material on record to show as to how and in what manner the appellant became owner of the property after the declaration of the Court holding that they are not the owner of the property and further in what capacity leased out the same. Once respondent no.2 in the present appeal was held to be owner of the property in dispute in earlier judgment and decree, no relief possibly could be granted to the appellant in the suit filed by it.

Accordingly, I do not find any substantial question of law arises in the present appeal and the same is dismissed.

December 06, 2007
Pka

(Rajesh Bindal)
Judge